

Item 10.**Exemption from Tender - Water Feature Maintenance Services**

File No: X018336

Tender No: T-2018-1855

Summary

This report seeks an exemption from tender for the provision of water feature maintenance services to allow time to complete the procurement of the new services. This report requests Council approve a contract variation for the Water Feature Maintenance Services contract (the contract).

The City of Sydney (the City) owns and maintains 48 water features located in outdoor public spaces across the Sydney Local Government Area.

The City's water features are significant in terms of their cultural value, heritage status, and contribution to the quality of the City's public spaces. Water features are serviced on a regular basis to maintain presentation, hygiene, function, asset condition and to meet legislative compliance for water quality.

The current contract commenced on 1 January 2019 and expires 31 December 2025.

Due to operational challenges, the original timeframe for issuing the tender to market as reported in the CEO Update on 18 July 2025, has not been met. The issuing of the tender will be postponed to early 2026, following the completion of the Christmas holiday period. Tenders are generally not issued by the City during the Christmas holiday period due to the large proportion of the supplier market taking leave thus risking the City not obtaining best value for money.

This report recommends that Council grant an exemption from tender for the provision of water features maintenance services to allow sufficient time to complete the procurement of the new services, and that Council approve a contract variation for the contract to extend the existing services until 31 August 2026.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender in accordance with section 55(3)(i) of the local Government Act 1993 to extend the existing contract for water features maintenance services for 8 months, noting that a satisfactory result would not be achieved by inviting tenders at this time;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because there is insufficient time to conduct a tender process for the services and execute a new contract before the expiry of the existing contract for water feature maintenance services;
- (C) Council note that the tender documents for the procurement are near completion and will be issued in early 2026;
- (D) Council approve a variation to the existing contract with Water Features Australia Pty Ltd (ABN: 66 076 262 809) to extend the contract term, with a revised expiry date of 31 August 2026;
- (E) Council note the revised contract sum for the extended term is set out in the Confidential Attachment A to the subject report; and
- (F) authority be delegated to the Chief Executive Officer to negotiate, execute and vary the contract relating to water feature maintenance services.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. The City of Sydney has 48 water features located in parks and public spaces across the Sydney Local Government Area.
2. The City's water features are significant in terms of their cultural value, heritage status, and contribution to the quality of the City's parks and public spaces.
3. Water feature assets include interactive features for play, ornamental and fogging/misting features and garden ponds with koi fish. Drinking fountains and swimming pools are excluded from the scope of the services and are maintained by other internal and external City-managed service provision.
4. Water features are maintained under the Water Feature Maintenance Services Contract (the contract). Council resolved to accept the tender offer of Water Features Australia Pty Ltd on 19 November 2018 for water feature maintenance services. The contract commenced 1 January 2019 with an initial term of 4 years and one further term of 3 years that was exercised in 2022 and expires on 31 December 2025.
5. Water features are inspected and maintained on a regular basis to ensure they are clean, presentable, functional and meet legislative compliance for water quality. Maintenance plays a key role in ensuring efficient use of water and power to contribute to the City's Environmental Strategy 2025-2030.
6. The contract services include:
 - (a) reporting for asset condition, performance and environmental targets
 - (b) 24 hour emergency response
 - (c) daily proactive inspections and reactive inspections when required
 - (d) maintenance including cleaning and hydraulic system management
 - (e) water quality management including automatic and manual chemical dosing, managing chemical dosing systems and water quality testing and analysis
 - (f) water feature repairs and capital renewals and
 - (g) aquatic life management.
7. The contract services are highly specialised with expertise required in consultancy, hydraulic engineering, water chemistry and water quality management, waterproofing, koi fish management and electrical and plumbing; with emphasis on 24/7 out-of-hours response. Many of the service requirements are delivered within confined spaces. Coordination with the City's Public Art team is also required for artwork collection maintenance and conservation.
8. Due to operational challenges, the original timeframe for issuing the tender to market, as reported in the CEO Update on 18 July 2025, has not been met. The issuing of the tender will be postponed to early 2026 following the completion of the Christmas holiday period. Tenders are not issued during the Christmas holiday period due to the large proportion of the supplier market taking leave, risking the City obtaining best value for money.

9. Varying the contract to extend the expiry until 31 August 2026 will allow for issuing the tender to market once the Christmas holiday period ends and the subsequent evaluation, approval, contract execution and transition-in process for the tendered services.

Performance Measurement

10. Operational key performance indicators are monitored on a monthly, quarterly and annual basis and through a combination approach of meetings, desk top quality assurance, inspections and reporting. This will continue for the remainder of the contract.

Financial Implications

11. There are sufficient funds allocated for the extension of the contract within the current year's operating budget and future years' forward estimates.
12. The financial implications for the extension of the contract until 31 August 2026 are detailed in Confidential Attachment A.

Relevant Legislation

13. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
14. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
15. Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
16. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.
17. Public Health Act (NSW) 2010 and Public Health Regulation 2022.

Critical Dates / Time Frames

18. The current contract term commenced on 1 January 2019 and expires 31 December 2025. The tender will be issued to the market in early 2026 following the completion of the Christmas holiday period. Tenders are generally not issued by the City during the Christmas holiday period due to the large proportion of the supplier market taking leave thus risking the City not obtaining best value for money.
19. The term of the contract extension will commence 1 January 2026 and expire 31 August 2026, allowing the time required to procure the new services, seek approval, execute a contract and transition-in the tendered services.

VERONICA LEE

Executive Director City Services

William Pearce, Program Manager - Strategy and Contracts